



**STAFF REPORT
ACTION REQUIRED**

Request for a Fence Exemption – 2100 Avenue Road

Date:	April 14, 2016
To:	North York Community Council
From:	Pat Burke, District Manager Municipal Licensing & Standards, North District
Wards:	Ward 16 – Eglinton-Lawrence
Reference Number:	IBMS No. 16-134794

SUMMARY

This staff report concerns a matter for which the North York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to advise Community Council concerning an application by the property owner's solicitor concerning 2100 Avenue Road for a site-specific Fence Exemption, pursuant to Section 447-5.C of Toronto Municipal Code, Chapter 447-Fences. The property owner is seeking Community Council's permission to maintain the rear yard wooden fences, particularly abutting # 1 Carmichael Avenue that violates the regulations stipulated in City of Toronto Municipal Code, Chapter 447.

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the North York Community Council:

1. Refuse to grant the application for an exemption permit, by the property owner's solicitor concerning 2100 Avenue Road, for the existing rear yard wooden fences abutting # 1 Carmichael Avenue which partially obstructs the view of the boulevard as stipulated in City of Toronto Municipal Code Chapter 447. Direct that a second un-appealable Notice of Violation be issued under City of Toronto Municipal Code, Chapter 447, Fences.

OR

2. Grant the application for a fence exemption, without conditions, thereby allowing the rear yard wooden fences abutting # 1 Carmichael Avenue to be maintained, as constructed. Direct and require that the fences be maintained in good repair without alteration. Direct and require that at such time as replacement of the fences is required that such installations will comply with Municipal Code Chapter 447, or its successor by-law.

OR

3. Grant the application for a fence exemption permit, subject to any conditions for the rear yard fences, as imposed by the North York Community Council.

FINANCIAL IMPACT

There is no financial impact anticipated in this report.

DECISION HISTORY

No previous decision history.

ISSUE BACKGROUND

The subject property is a one storey mixed-use building situated on the west side of Avenue Road, three blocks south of Wilson Avenue in Ward 16 (*Attachments # 1 and 2*).

The property owner has erected a solid/wooden board on board fence in the rear yard abutting # 1 Carmichael Avenue, that measures approximately 2.0 metres in height from the southwest corner of the lot, along the west elevation to a point approximately 1.0 metres encroaching onto public property, and then continuing on in a northerly direction [completely on the public road allowance] ranging in height from .86 and .96 metres in height (*Attachment # 3*).

The Municipal Licensing and Standards Division received a formal complaint on October 29, 2015 about the height of the rear yard fence on the subject property. Although fences in the rear yard are permitted to be 2.0 metres in height, the investigations by staff confirmed that a portion of the rear yard fence obstructs the view of the boulevard and a Notice of Violation dated November 2, 2015 was issued and remains outstanding pending the outcome of this exemption application request. The particulars of the infraction are listed in the chart which follows.

As required by Section 447-5(C), Municipal Licensing & Standards has responded to the fence exemption application by preparing this report for North York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that the North York Community Council will consider the application.

Municipal Licensing Standards' review of the rear yard fence installations has determined that they do not comply with Toronto Municipal Code, Chapter 447- Fences, as detailed in the following chart:

GENERAL LOCATION	SPECIFIC LOCATION	DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
West Elevation	Rear Yard along the west/rear lot line abutting # 1 Carmichael Avenue	This rear yard fence, at the end of the driveway, parking area [and on the public road allowance], is obstructing the view of the boulevard for the first 2.4 metres in length, on private property.	Section 447-2C.(1) Any fence within 2.4 metres of any driveway shall be an open mesh chain-link fence or of an equivalent open-fence construction for at least 2.4 metres from the lot line at which the driveway begins so as not to obstruct the view of the boulevard or highway.

COMMENTS

The lower section of fencing at the west elevation [closest to the sidewalk] to a point midway along the next section of fence which is approximately 2.0 metres in height, is completely on the public road allowance [the distance from the edge of the sidewalk to where public property ends, is approximately 3.6 metres]. All fencing along the rear lot line within the first 3.6 metres from the edge of the sidewalk is deemed to be an unauthorized encroachment and has been referred to Right-of-Way Management, Transportation Services for investigation and follow-up.

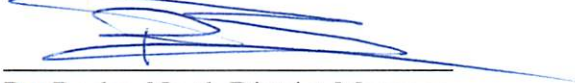
The fence at the west elevation, on private property is required to be of open mesh or equivalent open fence construction for the first 2.4 metres in length, when abutting any driveway that is within 2.4 metres (*Attachments # 3, 4 and 5*). The first 2.4 metres section of the existing west elevation fence on private property is of board on board construction and does not afford any view of the boulevard [from either the driveway of the subject property or the driveway of 1 Carmichael Avenue] and refusal of the request for a fence exemption is recommended (*Attachment # 6*).

The property owner seeks the exemption to maintain the rear yard fences primarily for reasons of privacy. Should the request be approved, a condition of approval should include that when the fences abutting # 1 Carmichael Avenue are replaced, they should be constructed in compliance with Chapter 447 or its successor by-law.

CONTACT

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SIGNATURE



Pat Burke, North District Manager
Municipal Licensing & Standards Division

ATTACHMENTS

- Attachment 1 – Aerial Map/View of 2100 Avenue Road
- Attachment 2 – Survey of 2100 Avenue Road
- Attachment 3 – Photo #1 of Rear Yard Fence Abutting # 1 Carmichael Avenue
- Attachment 4 – Photo #2 of Rear Yard Fence (View from 2100 Avenue Road)
- Attachment 5 – Photo #3 of Rear Yard (View from # 1 Carmichael Avenue)
- Attachment 6 – Photo #4 of Rear Yard (View from the Public Road Allowance)